

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 9792 of 2000****For Approval and Signature:****HON'BLE MR JUSTICE KS JHAVERI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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GSRTC - Petitioner(s)

Versus

GULAMMOHMAD HUSAIN MALEK - Respondent(s)

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Appearance :

MR HARDIK C RAWAL for Petitioner No(s).: 1.

MR GK RATHOD for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 19/07/2005**ORAL JUDGMENT**

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1. This petition is directed against the order dated 20th January, 2000 passed by the Labour Court in Reference [L.C.A.] No. 790 of 1999 whereby the Labour Court has set aside the punishment imposed by the petitioner Corporation and substituted the penalty into

stoppage of two yearly increments with permanent effect and has further directed to reinstate the respondent in service without back wages.

2. The short facts of the case are that the respondent workman was working as a conductor with the petitioner Corporation. On 3rd July, 1997, while the respondent workman was on duty, the bus was checked by the checking squad of the petitioner Corporation. The checking squad found certain irregularities in the issuance of tickets. Therefore, departmental inquiry was initiated against the respondent workman. Since the charges levelled against the workman were proved, he was dismissed from the service w.e.f. 27th April, 1998.

3. Being aggrieved by the dismissal order, the respondent workman preferred first departmental appeal, which came to be dismissed on 8th January, 1999. Pursuant to that the respondent workman raised an industrial dispute which was ultimately referred to the Labour Court, Ahmedabad for adjudication. The Labour Court, after appreciating the materials produced before it, passed the impugned award. Hence, this petition.

4. Mr. Hardik Raval learned advocate for the petitioner Corporation has contended that the Labour Court has erred in not taking into consideration the past record of the respondent workman. He has submitted that there are identical defaults committed by the respondent workman, for which appropriate penalties were imposed and in spite of that the respondent workman has continued with his misconduct. He has, therefore, submitted that the Labour Court has erred in upholding the order of dismissal passed by the petitioner Corporation.

5. I have heard the learned advocates for the respective parties and have perused the materials placed on record. It is not in dispute that the past record of the respondent workman is not good. The respondent workman had committed several irregularities and in the departmental inquiry charges levelled against the respondent workman were also proved. However, the Labour Court has substituted the penalty of dismissal into stoppage of two yearly increments with permanent effect. But considering the seriousness of the misconduct committed by the respondent workman and keeping in mind his past record, the quantum of punishment imposed by the Labour Court appears to be on the lighter side.

6. In above view of the matter, the impugned order of the Labour Court, 20th January, 2000 passed by the Labour Court in Reference [L.C.A.] No. 790 of 1999 is modified to the extent that the penalty of stoppage of two increments with future effect is modified by imposing a penalty of stoppage of four increments with future effect and rest of the award is confirmed. The petitioner Corporation is directed to pay the difference of salary within a period of three months from the date of the receipt of writ of this order. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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